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SUBJECT: Camcording in Montreal theaters: perspectives
from industry and law enforcement

This message is Sensitive but Unclassified

1. (SBU) Summary and Comment: The Canadian Motion Picture Distributors Association's (CMPDA) Montreal anti-piracy division and the Montreal division of the Royal Canadian Mounted Police (RCMP) gave two different perspectives on the scope and impact of camcording in Montreal theaters to Econcouns and Econoff on December 6. The CMPDA continues to stress the negative impact of theater camcording and the lack of both law enforcement attention and legislative measures to combat the problem. The Motion Picture Association now estimates that through the third quarter of 2006, 18 percent of pirated movies sold around the world can be traced to camcording in Montreal theaters--a revision of the 40 to 50 percent figure given to Econoff in March (ref A). The Association has not determined the financial losses due to camcording, but estimates that CMPDA members in Canada lost USD 118 million in 2005 due to general piracy. The CMPDA also states that one individual may be responsible for most of these camcorded movies. The Association has lobbied the Canadian government to step up efforts to stop theater camcording and to make it a criminal offense.

2. (SBU) Montreal RCMP officers consider theater camcording to be a low priority, and focus their IPR enforcement resources on violations that have a public safety dimension (such as counterfeit pharmaceuticals) or that cause serious financial losses. The officers expressed skepticism as to the scale of the camcording problem and its impact on Canadian industry. The RCMP has encouraged industry representatives such as the CMPDA to undertake their own investigations of movie piracy and pursue civil litigation under the Copyright Act. Using casework developed by the CMPDA, the RCMP has twice arrested the individual believed to be behind most Montreal camcording. The Crown Prosecutor may bring charges early next year Q but even if convicted, the alleged perpetrator will not receive jail time, according to the RCMP.

3. (SBU) The lack of an anti-camcording provision in Canada's criminal code introduces a significant "gray area" into the legality of bringing a video recorder into a movie theater. This aside, the lack of hard figures about the extent of camcording in Montreal theaters, the impact of this camcording on movie piracy worldwide, and especially the financial injury this piracy inflicts on the entertainment industry in Canada have hindered our case in advocating the introduction of anti-camcording provisions

in Canadian law. Given the RCMP's little interest in pursuing camcording, the lack of deterrent penalties for filming in theaters, and the ever-improving technology of cameras and computers, we would be surprised if this high-tech pastime disappears anytime soon in Montreal.
End Summary and Comment.

Industry Sees an Acute Camcording Problem, Urges Action

¶4. (SBU) A representative from the CMPDA's anti-piracy operations in Montreal told Econoffs that his organization has revised its statistics with regard to the role played by Montreal camcording in movie piracy worldwide. While previous statistics based on Motion Picture Association (MPA) figures estimated that between 40 percent and 50 percent of all pirated films could be traced to Montreal theaters, new figures indicate that this percentage is closer to 18 percent. This percentage is based on MPA estimates through the first three-quarters of 2006 showing that 54 of 60 theater camcordings in Canada occurred in Montreal--out of a total of 295 camcordings worldwide. The MPA based its data on examinations of movie watermarks in pirated DVDs that can be traced back to specific theaters (see ref A). (Comment: The Canadian government and the RCMP have questioned the industry figures in the past. The CMPDA claims that the contrast between the 40-50% estimate of pirated films from Montreal theaters and the current 18% estimate is a result of the MPA taking a Qmore globalQ approach to its study of pirated films, and incorporating the contribution of other geographical areas--especially Europe--to worldwide movie piracy. The lack of hard data regarding the extent of theater camcording in Montreal and its financial impact is a source of difficulty in conveying the need for the inclusion of an anti-

camcording provision in CanadaQs criminal code. End
Comment)

¶5. (SBU) The CMPDA representative laid out a picture of camcording in Montreal theaters as the product of one well-organized individual with links to global piracy circles. According to the CMPDA, the individual camcorded movies at five large theaters in the greater Montreal area, usually on the first afternoon of a filmQs release. Using a high-quality webcam, the individual recorded films directly to his computerQs hard drive to capture a high-quality image. He would then transfer the movie file to high-capacity storage hard drives in his home. The CMPDA stated that a select group of individuals involved in the pirated industry around the world--including in the United States --could then gain access to the hard drives and merely "drag and drop" the full film file onto their own hard drives. The high-tech nature and relative simplicity of this system helps explain how films such as "The Chronicles of Narnia" could be shown in a Montreal theater and later sold in DVD form on big city streets within a matter of hours.

¶6. (SBU) The act of camcording in a theater is not illegal under Canadian law, and only becomes an offense when a camcorded movie is distributed on the internet or in another form, according to the CMPDA. The CMPDA has urged the Canadian government to introduce an anti-camcording provision in the criminal code, which would give both local police officers and RCMP officers the power to arrest individuals caught camcording in theaters. The CMPDA says that currently, only the RCMP (CanadaQs federal police) can act against individuals camcording movies and only if the camcorded movies are subsequently distributed for sale. Even if a theater manager spots someone camcording a film, local police will refer inquiries to the RCMP. The CMPDA says that in order to convict someone under the Copyright Act, it is not enough to see someone in a theater with a camcorder in order to bring a case against him or her. One must actually prove "commercial intent" on the part of the person filming, who might claim that they are

simply recording a copy for personal use. "We need to catch [the person filming] while they are actually setting up," the CMPDA official stated, and then be able to prove that the movie in question appeared in pirated form afterwards.

¶7. (SBU) The CMPDA has helped train theater employees at key Montreal-area theaters to detect camcording. The Association says it is difficult to spot individuals camcording for commercial use given the ease of set-up, the small size of webcams, and the fact that they have no red light or other telltale indicator. Furthermore, even if law enforcement stops an individual during the course of the movie, he can press a "stop" button to avoid saving the film, and his computer will have no record of wrongdoing. However, if law enforcement officials are able to catch the suspect while he or she is leaving the theater, after having recorded the film to his or her hard drive, they might have a chance of pressing charges, the CMPDA said.

Major Player Arrested and Released Twice

¶8. (SBU) According to the CMPDA, this was the case in the beginning of September when the CMPDA collected evidence that facilitated the RCMP's arrest of the individual whose recordings had been allegedly transformed into pirated DVDs around the world. The RCMP released the individual after questioning, with the caveat that he was not to return to movie theaters in the city. Although the number of camcordings traced to Montreal dropped significantly for one month following the arrest, it gradually increased again. Convinced that the individual had resumed his camcording, the CMPDA collected further evidence and convinced the RCMP to arrest him for a second time in October. The CMPDA official noted that the suspect was again released after being questioned by RCMP officers and with the understanding that he could not enter a movie theater. The CMPDA official stated that it was unclear how much money the suspect had received for each incidence of camcording.

Arrests - "A Favor" to Industry; Camcording "Not a Major Problem," According to Law Enforcement

¶9. (SBU) A discussion with a superintendent and a staff sergeant combating intellectual property crimes at the RCMP's Montreal headquarters yielded a different perspective on camcording and the best means of tackling the issue. The RCMP states that it focuses its limited IPR-dedicated resources to issues that have health and safety components (e.g., counterfeit pharmaceuticals) or that have a large, demonstrable financial impact. The RCMP is currently undertaking a "fact-finding mission" on all IPR issues as part of its mission to combat "economic Crime" to determine what sorts of problems exist and how best to address them with existing resources.

¶10. (SBU) With regard to the arrest of the individual who had been pursued by the CMPDA, RCMP officers stated that they arrested the individual "as a personal favor" to a CMPDA official, and that they did not view theater camcording as "a major issue." The officers said that IPR holders could pursue legal action against suspects engaged in camcording via the civil code without needing to engage the RCMP. They acknowledged, however, that a conviction under the civil code would not result in prison time, and would usually involve a relatively small fine. The RCMP officers also took a different view of the camcording suspect, seeing him as "a small player," being manipulated by a larger piracy organization(s), and not receiving lucrative financial rewards for his work. One RCMP officer expressed concern that the RCMP not be seen as "the enforcement arm of industry," noting that the "industry

comes to [the RCMP] more and more" with requests for action. Although the RCMP officers suggested that industry representatives could pursue litigation through the civil code on their own, they commented that proving an individual had a commercial purpose to his camcording could be difficult.

Marshall